

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Kera Carter,  
  
Debtor.

Case No.: 17-49794  
Chapter 7  
Hon. Mark A. Randon

\_\_\_\_\_  
G&H Customs, LLC,  
  
Plaintiff,

v.

Adversary Proceeding  
Case No.: 17-04706

Kera Carter,  
  
Defendant.

**ORDER GRANTING IN PART DEBTOR’S MOTION TO REOPEN CASE  
AND SET ASIDE THE CONSENT JUDGMENT**

After Debtor’s house was damaged in a fire, she engaged the services of G&H Customs, LLC (“G&H”) to make repairs. G&H is an unlicensed contractor. This would not have posed a problem if Debtor had paid G&H, in full, for the repairs. But that didn’t happen.

G&H alleges that several thousand dollars remain unpaid on its restoration contract (“the debt”), and Debtor fraudulently signed and cashed its insurance reimbursement check. G&H, therefore, filed this adversary proceeding (“AP”)

challenging the dischargeability of the debt under 11 U.S.C. §§ 523(a)(4) and 523(a)(6) in Debtor's Chapter 7 bankruptcy.

Although Debtor was not represented by counsel in the AP, the parties stipulated to a consent money judgment. Debtor has since retained counsel and now moves to reopen the AP to set aside the judgment. The reason: in Michigan, an unlicensed contractor is prohibited from suing a customer for unpaid repairs. MICH. COMP. LAWS § 339.2412(1) ("the Act"); *Epps v. 4 Quarters Restoration LLC*, 498 Mich. 518, 529 (2015) ("MCL 339.2412(1) prohibits an unlicensed builder from 'bring[ing] or maintain[ing] an action [in a court of this state] for the collection of compensation[.]'"). Debtor says, at all relevant times, G&H held itself out to the world and Debtor as a licensed contractor without disclosing to her that, in fact, it was not.

Licensed or not, the Court finds that G&H's adversary proceeding was proper. It did not *request* a money judgment—only a determination that the debt was nondischargeable. The Act does not preclude payment to an unlicensed contractor, only a suit to collect that payment. *Epps*, 498 Mich. at 529-30. At a minimum, the AP, if successful, would have preserved G&H's ability to demand payment from Debtor, even if it could not sue her for it. More fundamentally, however, the bankruptcy court is not a "court of this state" as defined by the Act.

Whether Debtor may be relieved from a money judgment—which G&H would have been unable to obtain in state court—is another matter altogether. However, this Court has not been presented with the appropriate Federal Rule of Civil Procedure Rule 60(b) motion to consider whether setting aside the consent judgment is appropriate.

The Court, therefore, **GRANTS IN PART** Debtor’s motion because it finds good cause to reopen the case. Debtor has until ***October 22, 2018***, to file a Rule 60(b) motion or the case will be closed.

**IT IS ORDERED.**

**Signed on September 20, 2018**



/s/ **Mark A. Randon**

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**Mark A. Randon**  
**United States Bankruptcy Judge**